

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08CV16-1-MU

LYNN ALAN PALMER, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** comes before the Court upon its own motion.

On March 24, 2008, this Court sent the Petitioner an Order in compliance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975). In this Order, the Court notified the Petitioner that the Respondent had filed a Motion for Summary Judgment and that if the Petitioner failed to respond to this motion within thirty days, the Court might grant the Motion for Summary Judgment. The Court did not receive a response by Petitioner and Petitioner's deadline for filing a response expired. Consequently, this Court issued an Order granting Respondent's Motion for Summary Judgment and dismissing Petitioner's Motion to Vacate.

It has now come to the Court's attention that Petitioner did timely respond to Respondent's Motion for Summary Judgment but that he mistakenly filed such response with Respondent rather than the Court. In the interest of fairness, this Court will vacate its May 5, 2008, Order.

**THEREFORE, IT IS HEREBY ORDERED** that the Clerk is directed to vacate the Court's May 5, 2008, Order and re-open the above-referenced case.

Signed: May 12, 2008

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

